



Town of Moultonborough Zoning Board of Adjustment

Notice of Decision

Request for Special Exception - Non-Conforming Structure

Donald and Marilyn Weatherbee/Map 150, Lot 17

June 2, 2010

**Applicant: Donald and Marilyn Weatherbee
48 Black's Landing Road
Moultonborough, NH 03254**

Location: 48 Black's Landing Road, Moultonborough, NH (Tax Map 150, Lot 17)

On May 19, 2010 the Zoning Board of Adjustment of the Town of Moultonborough opened a public hearing on the application of Donald and Marilyn Weatherbee (hereinafter referred to as the "Applicant" and/or "Owner") for an application for Special Exception under Article VII (B)(3) to allow for expansion of a non-conforming primary building into the existing setback for the property located in the Agricultural Residential (AR) Zoning District at 48 Black's Landing Road.

Based on the application, testimony given at the hearing, and supporting documentation and plan(s), the Board hereby makes the following findings of fact:

- 1) The property is located at 48 Black's Landing Road (Tax Map 150, Lot 17)
- 2) The applicants are the owners of record for the lot.
- 3) The lot is located in the Agricultural Residential (AR) Zoning District.
- 4) No members of the public wished to speak during the Public Hearing.
- 5) The existing structure, a single-family residential unit, is the primary structure on the lot, and extends into the lake setback as a pre-existing, nonconforming primary structure.
- 6) The applicants are proposing an addition to the existing structure within the fifty foot (50') foot lake setback on the lot.
- 7) This is the second such Special Exception Application for the subject property. The first request was for the existing deck and constituted a total of approx. 100 sq.ft..
- 8) The applicant waived their right to a five (5) member Board.
- 9) The footprint of that portion of the new structure extending into the lake setback will be approximately 9 sq.ft.

- 10) The existing structure is entirely within the lake setback and constitutes approx. 939 sq.ft.
- 11) The previously granted Special Exception of 100 sq.ft. resulted in the total future allowable intrusion to be no greater than 839 sq.ft.
- 12) The proposed new structure will not encroach further into the lake setback than the original structure.
- 13) The proposed expansion will not intrude further into any setback area than does the existing structure.
- 14) The proposed expansion will not have an adverse impact on the view, light or air of any abutter.
- 15) The proposed expansion will not cause property values to deteriorate.
- 16) The proposed expansion will not impede the existing rights of access or egress.
- 17) The new portion of the proposed expansion which will intrude into the lake setback will not exceed the sq.ft. amount of intrusion that is present in the existing structure.
- 18) The non-conforming primary structure is not a commercial use.
- 19) The requested Special Exception is to the lake setback.
- 20) Granting of this Special Exception will not result in the violation of any setbacks not already affected.
- 21) The application meets all of the requirements for a Special Exception under Article VII B(3).
- 22) The approval is only approved per the Town of Moultonborough's Zoning Ordinance, Section VII(B)(3). A NHDES Shoreland permit will still be required to be obtained by the applicant.
- 23) The Zoning Board of Adjustment voted by a vote of four (4) in favor (Stephens, Nolin, Heal, McCarthy), and none (0) opposed to continue the Public Hearing to June 2, 2010, and to direct the Town Planner to draft a Notice of Decision to Grant the Special Exception, to be reviewed by the Board at the June 2, 2010 Regular Meeting.

The Board of Adjustment continued the Public Hearing to June 2, 2010. The Board of Adjustment closed the public portion of the hearing on June 2, 2010. Based on the above Findings of Fact, the Board of Adjustment voted by a vote of four (4) in favor (Stephens, Heal, Nolin, Roseberry), none (0) opposed, to **GRANT** the request for Special Exception.

This decision shall not take effect until thirty (30) days have elapsed and no request for rehearing has been filed in accordance with RSA 677:2, or that if such request has been filed, it has been dismissed or denied, in accordance with RSA 677:3.

Robert H. Stephens
Chairman, Zoning Board of Adjustment

Date _____